

### REMARKS

Claims 1 through 7, as amended, still remain in this application.

Applicant wishes to express gratitude to the Examiner for the suggestions which are believe to render the claim language more definitive. All of the Examiner's suggestions have been adopted.

With respect to the Examiner's comment regarding claim 5, line 3, it is noted that claim 5 inadvertently omitted that it depended from claim 4. Since this inadvertent error has been cured, it is believed that the objection regarding proper antecedent is moot.

Reconsideration of the rejection of claims 1-7 (inclusive) as being anticipated by Haswell ("041) in light of 35 U. S. C. § 102(b) is respectfully requested. The only thing that can be said of Haswell is that if Haswell is worthy of patent protection, so is the present invention. While the Examiner is correct in his analyses that Haswell provides a kit for collecting blood and urine sample, his teachings end there. Haswell is concerned with the affects of humidity on the blood sample card and is limited to sending it in by a provided envelope. Applicant's invention is not concerned with humidity and more importantly the mailing of the specimen is egregious to the inventive concept of applicant's invention. The essentially element to applicant's invention is to provide unit of members who are available to hand-carry the specimen to the laboratory. To provide a mailing service is the anthesis of applicant's concept.

To more fully appreciate applicant's business method, the major concept is to provide a business that accepts members and provide a member unit of three (3) members, who acknowledge responsibility to respond to the call of the other member of the unit. In addition,

a card with the detail instructions and a urine kit is provided so that the unit member who is confronted with a governmental official will know the sequence of events that are useful in preserving his rights. Obviously, this is not to the drunk or dangerous type, but for the unfortunate individual who rightfully is not intended to be a subject DUI candidate. In this sense, the card tells the unit member to agree to a sobriety test, to request his independent test, a list of telephone numbers of unit members.

It is believed that the Examiner is under the erroneous assumption that the claimed printed matter is not functionally related to any structural element, nor to any method step. Not true. First, the card is a acknowledgment of membership in the business arrangement and an agreement of three members to each other within a unit membership. This it would seem is fundamental to the invention and the business enterprise. In other words, the card expresses an arrangement that three unit members agree upon. True, one could argue that the names and telephone numbers could be committed to memory. This would be hardly unsatisfactory under a situation of stress and panic. Second, the card is acknowledgment of that persons membership identity. This is unique because obtaining the card requires more than just payment in membership dues as it requires commitment, real and sometimes difficult.

The information, contrary to the examiner's conclusions, on the card of Haswell is not germane to the indicia on the card of the present invention. It seems that the indicia on the Haswell card includes areas for depositing blood samples and a humidity detection system. This is not remotely similar to the card and kit of the present invention. While it is agreed that merely carrying a card with information and nothing more does not rise to the level of patentability, this is not the same as providing a unique membership with available unit members who agree to carry a sample to a laboratory as is the method of this invention.

The Examiner questions the limitation recited in the claims that is purported to be a mere intended use and states the "intended use must result in a manipulative difference as compared to the prior art. In other words the Examiner's contention is that the recited method "preserving the legal rights of an individual" is simply an intend use and, ipso facto, is not a manipulative difference in light of the prior art. Applicant disagrees. The cited reference DUGUY.COM Driver's Right's card" is exemplary of the prior art. It clearly states in paragraph 6. that the alleged DUI violator should consent to any official state tests of urine and then requests that he be allowed to take it to a private testing facility. As the Examiner will appreciate this is a card that merely provides information and nothing more. In contrast, the present invention provides, albeit with the aid of the card, another member of the 3-member unit to assist in the taking and transporting of the urine sample.

The intended use does, indeed, result in a manipulative difference as compared to the DUGUY prior art method as it includes a positive act that when taken obviously results in preserving the rights of the alleged DUI violator. While it may not make a difference as to whether the DUI violator is found guilty in a court of law, the fact still remains that the rights that the individual has is preserved by the steps taken by being a member of this business arrangement including the utilizing of the kit of the membership.

As the Examiner knows, in order to find anticipation in the § 102 sense, the Examiner must find all the elements in the claims in a single prior art reference. Failure to do so would defeat the Examiner's rejection. Claims 1- 5 clearly distinguish over the cited reference as it provides the unique membership where a member of a unit of 3 members is committed to deliver the urine sample to a laboratory. This limitation is absent from the cited reference and for that matter all of the cited references. It is earnestly requested with respect to these rejected claims, that the Examiner withdraw the § 102 rejection.

All the claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Driver Right's Card in view of Haswell. The 'Card reference was discussed immediately above and the arguments presented relative to the § 102 rejection is employed with equal vigor with respect to this rejection. As mentioned above applicant's invention begins where the "Card teachings leaves off. We believe that applicant invention is worthy of patent protection inasmuch as it is for a business method recognized in Patent Law as being the subject for patent protection. No where is it shown, taught, intimated that a business organization can be comprised of members where three members are bound to each other for the purpose of delivering a urine specimen to a laboratory in order to preserve the legal rights of another unit member. It is submitted that the card and kit are essential ingredients to the method and that the indicia on the card manifest into a method that must be carried out in order to preserve the rights of the member being examined for a DUI violation. Applicant doesn't argue that the mere kit for collecting a urine sample or any other sample is well within the prior art. Nor does Applicant question the obviousness of combining the collection kit of Haswell with the "Card. To do so would not render Applicant's invention obvious to one of ordinary skill. Where is the teachings of providing a 3-member unit committed to delivering the sample to a laboratory? Where is there a suggestion or inference or even a motivation to set up a business organization that provides the necessary steps to do the things necessary to allow a DUI accused person to protect the rights granted to that person by the law? It is respectfully submitted that the concept underlying this invention and the claim language patentably distinguish over the cited references. It is also submitted that the indica on the card is something more than providing information, it provides that which is necessary to perform the intended use, namely a committed group of three (3) members who will assists in the time of need and carry a urine specimen to a laboratory so as to be used for the benefit of the other member. It is earnestly requested that the § 103 rejection be withdrawn.

In view of the foregoing, it is believed this application is in condition for allowance and the allowance thereof is respectfully requested.

Respectively submitted,

DAVID L. HEILMAN

By 

Norman Friedland  
Attorney of Record  
(Reg. No. 20,070)

Norman Friedland  
2855 PGA Boulevard  
Palm Beach Gardens, FL 33410  
(561) 626-4111  
Date: August 20, 2004